

**VOLUNTARY CLEANUP CONTRACT
10-5956-NRP**

**IN THE MATTER OF
The Koch Refining Company Site, Charleston County
and
Odfjell Terminals (Charleston) LLC**

This Contract is entered into by the South Carolina Department of Health and Environmental Control and Odfjell Terminals (Charleston) LLC ("Odfjell") with respect to the Property located at 1003 Virginia Avenue, North Charleston, South Carolina, 29405. The Property includes approximately 19.978 acres identified by Tax Map Serial Number 502-14-00-002. In entering this Contract, the Department relies on the representations contained in the Application submitted November 8, 2010, and any amendments thereto, by Odfjell, which is incorporated into this Contract and attached as Appendix A.

AUTHORITY

This Contract is entered pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. § 44-56-710 through 760, as amended; the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-10, et. seq., and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601, et seq.

DEFINITIONS

1. Unless otherwise expressly provided in this Contract, terms used in this Contract shall have the meaning assigned to them pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. § 44-56-710 through 760, as amended, and if not set forth therein, shall have the meaning assigned to them pursuant to the South Carolina Hazardous Waste Management Act, S.C. Code Ann. § 44-56-10, et. seq., the S.C. Pollution Control Act, S.C. Code Ann. § 48-1-10, et. seq., the S.C. State Underground Petroleum Environmental Response Bank Act, S. C. Code Ann. § 44-2-10, et. seq., or the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601, et seq.

- A. "Odfjell" means Odfjell Terminals (Charleston) LLC.
- B. "Beneficiaries" means Odfjell's Non-Responsible Party lenders, parents, managers, members, employees, subsidiaries, and successors, including new purchasers, lessees, and other parties acquiring an interest in any portion of the Property, but only to the extent that such parties have never been a Responsible Party at the Site.
- C. "Contamination" means the presence of any pollutant or contaminant, hazardous substance, petroleum, or petroleum product.
- D. "Contract" means this Voluntary Cleanup Contract.
- E. "Department" means the South Carolina Department of Health and Environmental Control, or a successor agency of the State of South Carolina that has responsibility for and jurisdiction over the subject matter of this Contract.
- F. "Existing Contamination" means any contamination including any pollutant or contaminant, hazardous substance, petroleum or petroleum product, present on, or under, the Site as of the execution date of this Contract.
- G. "Property" means the real property as described in the Non Responsible Party Application for Voluntary Cleanup Contract attached as Appendix A, and that is subject to the ownership, prospective ownership, or possessory or contractual interest of Odfjell. The Property is located at 1003 Virginia Avenue in North Charleston and is at the easternmost end of East Montague Avenue. The address of the Property has also been known as 1003 East Montague Avenue but at this time is officially 1003 Virginia Avenue. The Property consists of approximately 19.978 acres identified by Tax Map Serial Number 502-14-00-002. The Property is bounded to the north by Chem-Marine Corporation and to the south by Hess Oil and Chemical Company; to the east by the Cooper River; and to the west by Virginia Avenue with residential and commercial development. A railroad easement extends across the Property running generally parallel to the northern property boundary.
- H. "Segregated Sources" means drums, tanks, or similar discrete containers that potentially hold substances that may cause contamination upon release to the

environment.

- I. "Waste Materials" means any contamination-causing solid, semi-solid, or liquid material discarded, buried, or otherwise present on the Property, and may include sludge, slag, or solid waste materials such as empty containers and demolition debris or materials containing asbestos, lead-based paint, or petroleum or other contaminants.

FINDINGS

2. Based on the information known by the Department, the following are asserted for this Contract:

- A. Owners and Operators: The historical owners and operators of the Property are as follows:

Owner / Operator	Date of Purchase
Filbin Corporation	Unknown
North Charleston Company / North Charleston Holding Corp.	February 28, 1918
Atlantic Richfield / Sinclair Oil Corporation / Sinclair Refining Company	April 1, 1941
BP Oil Corporation	March 4, 1969
AMDEL Inc. / American Petrofina Company of Texas (Merger)	July 1, 1973
American Petrofina Marketing, Inc. / Fina Oil and Chemical Company (Name change)	May 5, 1983
Koch Refining Company Known as Koch Refining Company, L.P. as the result of merger	September 9, 1988
Charleston Cement Company, LLC Parent Company: Thomas Cement Company	July 7, 1998
Rescar, Inc. (operator under lease)	Leased February 17, 2005 - Present

B. Short History of the Property.

- 1). The Property was first developed in the 1920s as a bulk petroleum storage facility / fuels terminal. Aerial photographs from 1957 through 2006 depict bulk storage tanks. From 1988 until 2004, the Property was used for bulk cement and concrete materials storage. Currently, Rescar, Inc. uses a portion of the Property as a railcar repair facility. The Property's current improvements include a three-bay warehouse; two large capacity above ground storage tanks; and a brick office building that is in disrepair. The Property is fenced.
- 2). Historical use of the Property as a bulk petroleum storage facility included at least sixteen above ground storage tanks (ASTs) with above/below ground appurtenances; an oil-water separator with a holding pond; truck loading rack; and railroad car loading rack. Two ASTs remain on the Property. The foundations of dismantled tanks have been broken up. Rescar, Inc. has a temporary office trailer on the Property. Debris that includes unlabeled drums, drums of hydraulic fluid, and drums of well purge water is scattered across the Property along with bags of dry cement.
- 3). In November 2003, the Department's Bureau of Water entered into Consent Agreement 03-207-W with Reiss Remediation Company (Reiss) to implement remedial actions to address petroleum impact to groundwater beneath the Property. Free product (unleaded gasoline) and dissolved petroleum contamination have been found on the Property. Remedial efforts have consisted of a groundwater recovery system to include an oil/water separator, which operated from 1993 to 1996; an air sparge system, and in-situ chemical oxidation. In 2005, 1,150 tons of impacted soil was removed from the truck loading area. Reiss is conducting semi-annual groundwater monitoring.
- 4). On July 7, 1998 Koch Refining Company, L.P. subjected the Property to Covenants and Restrictions prohibiting the use of the Property for residential purposes and prohibiting the use of groundwater beneath the Property for

drinking water. The instrument was recorded by the Charleston County Registrar of Deeds on July 10, 1998 at Book N306 and Page 616.

- 5). Kestrel Horizons, LLC prepared a Phase I Environmental Site Assessment, dated October 26, 2010, for the Property in support of Odfjell's Application for this Contract. That Phase I identified two recognized environmental conditions: 1) impacted groundwater; and 2) potential residual petroleum products as a source for contamination of soils and groundwater. Kestrel Horizons, LLC's representative accompanied Department personnel during a site visit of the Property on November 5, 2010.

C. Party Identification: Odfjell is incorporated in Delaware with its principal place of business located at 12211 Port Road, Seabrook, Texas, 77586. Odfjell's parent company is Holdings (US) Inc. located at 12211 Port Road, Seabrook, Texas, 77586. Odfjell affirms that it has the financial resources to conduct the response action pursuant to this Contract.

D. Proposed Redevelopment: Odfjell will acquire the Property to construct and operate a bulk liquid tank farm storage and distribution terminal for ships, rail and truck transportation of liquid products. Odfjell will be identified as a large quantity generator of hazardous substances. Odfjell expects to create from 12 to 40 permanent jobs on the Property and anticipates an increase of \$20,000,000.00 to the tax base. The existing tanks and warehouse structure may be used for Odfjell's operations while the existing brick building will be demolished.

BONA FIDE PROSPECTIVE PURCHASER STATUS

3. Odfjell certifies that it is a Non-Responsible Party at the Site and is eligible to be a Bona Fide Prospective Purchaser for the Property.

RESPONSE ACTION

4. Odfjell agrees to conduct the response actions specified in the sub-paragraphs below. An initial Work Plan shall be submitted by Odfjell, or its designee, within

thirty (30) days of the execution date of this Contract, or later date if approved by the Department's project manager, setting forth methods and schedules for response actions detailed herein. Odfjell acknowledges that the response actions may find distributions of existing contamination requiring additional assessment or corrective actions on the Property that cannot be anticipated with this Contract. Odfjell agrees to perform the additional response actions consistent with the intended uses of the Property under the purview of this Contract; however, Odfjell may seek an amendment of this Contract to clarify its further responsibilities. Odfjell shall perform all response actions required by this Contract, and any related actions of Odfjell's choosing not expressly required by this Contract, pursuant to Work Plans and/or Addenda approved by the Department.

A. Work Plan Logistics:

- 1). All activities undertaken pursuant to this Contract shall be consistent with S.C. statutes and permitting requirements (e.g., stormwater management and waste disposal regulations). Odfjell shall identify and obtain the applicable permits before beginning any action.
- 2). The Work Plan shall be in accordance with accepted industry standards and shall be signed and sealed by a Professional Engineer or Professional Geologist duly-licensed in South Carolina.
- 3). The Work Plan(s) shall provide sufficient information about the proposed sampling points, collection methods, analytical methods, and other pertinent details of the response actions.
 - a). Sample collection methodologies shall be consistent with the US EPA Region IV Field Branches Quality System and Technical Procedures (<http://www.epa.gov/region4/sesd/fbqstp/>).
 - b). All monitoring wells and groundwater sampling points shall be constructed in accordance with 25 S.C. Code Ann. Regs. R.61-71. The Work Plan shall provide sufficient detail to support issuance of the well approvals by the Department.
 - c). The laboratory analyses for samples taken pursuant to the Work Plan are

specified in the media-specific sub-paragraphs below, but may include: 1) the full EPA-TAL (Target Analyte List); 2) the full EPA-TCL (Target Compound List); 3) the EPA TAL-Metals (TAL Metals without Cyanide); 4) EPA-SVOCs (EPA-TCL Semi-Volatile Organics without Pesticides and Herbicides); 5) EPA VOCs (EPA-TCL Volatile Organic Compounds); and 6) EDB (1,2-Dibromoethane).

- d). All analytical methods shall use appropriate detection levels to allow comparison to the media-specific screening criteria listed in the "EPA Regional Screening Levels for Chemical Contaminants at Superfund Sites" (RSL Document) in effect at the time of sampling. For soil samples, the applicable detection level Protection of Groundwater SSL (Soil Screening Level) for a compound shall be the "MCL-Based SSL" if listed.
- 4). The Work Plan shall include the names, addresses, and telephone numbers of Odfjell's consulting firm(s), analytical laboratories, and Odfjell's contact person(s) for matters relating to this Contract and the Work Plan.
- a). The analytical laboratory shall possess applicable Certification as defined in 25A S.C. Code Regs. R.61-81, for the test methods specified in the Work Plan.
- b). Odfjell shall notify the Department in writing of any changes concerning contracting firm or laboratory identified in the Work Plan.
- 5). The Department will notify Odfjell in writing of approval of or deficiencies in the Work Plan.
- 6). Odfjell, or its designee, shall respond in writing within thirty (30) days of receipt of any comments regarding the Work Plan deficiencies.
- 7). Odfjell shall begin implementation of the Work Plan as soon as reasonably possible after receipt of written approval of the Work Plan from the Department.
- 8). Odfjell shall inform the Department at least five (5) working days in advance of all field activities conducted pursuant to the Work Plan and shall allow the Department, or its authorized representatives, to take duplicates of any samples and to analyze the duplicates at the Department's sole cost, if

desired.

- 9). Odfjell shall preserve items that may: 1) provide evidence of a Potentially Responsible Party's involvement at the Site; 2) lead to the discovery of other areas of Contamination at the Site; or 3) contain environmental information related to the Site. Such items may include drums, bottles, labels, business and operating records, contracts, Site studies, investigations, and other physical or written materials relating to the Site. Odfjell shall notify the Department of the location of any such items, and provide the Department with an opportunity to inspect any materials or copy any documents at the Department's expense prior to destruction or disposal of said items.
- 10). The Department may require additional sample locations or procedures not identified in the initial Work Plan to determine the extent of Existing Contamination if the assessment activities results exceed the screening criteria.

B. Assess Waste Materials and Segregated Sources:

- 1). Odfjell shall assess Waste Materials and Segregated Sources present on the Property at closing or upon their discovery on the Property at any time during assessment, corrective action, or development activities. The contents of the sources shall be properly reused or characterized and disposed in accordance with regulations.
- 2). Odfjell's assessment of Waste Materials and Segregated Sources shall include characterization and an estimation of the quantity or extent of each type of Waste Material or Segregated Source, as applicable.
- 3). Odfjell shall, upon discovery, expeditiously stabilize or remove from the Property any Segregated Source that has not yet released all contents to the environment.
- 4). Odfjell shall immediately notify the Department if a release of Contamination is identified or occurs as a result of its assessment, stabilization, or removal actions. Odfjell shall assess the impact of the release in accordance with a Department approved plan.

C. Assess soil quality across the Property:

- 1). Odfjell shall collect and analyze soil samples from locations on the Property as listed below. Odfjell shall collect surface soil samples from 0-1 foot below ground surface (bgs) and subsurface soil samples from 4-6 feet bgs or at the soil-water interface, when groundwater is encountered above the 4-foot depth. The locations and analysis are as follows:
 - a). One (1) location in the northwestern portion of the Property that has been unaffected by facility activities to be designated "background". A surface and subsurface sample should be collected and analyzed for TAL metals.
 - b). One (1) location east of the designated Sparge Area 1 at AST #8. A surface sample should be collected and analyzed for TAL metals and TCL SVOCs. A subsurface sample should be collected and analyzed for TAL metals, TCL VOCs, and SVOCs.
 - c). One (1) location east of designated Sparge Area 2 at monitoring well # 6R. A surface and subsurface sample should be collected and analyzed for the full suite of TAL/TCL.
 - d). One (1) location west of monitoring well #1R near the southern Property boundary. A surface sample should be collected and analyzed for TAL metals and TCL SVOCs. A subsurface sample should be collected and analyzed for TAL metals, TCL VOCs, and SVOCs.
 - e). One (1) location north of the railroad spur and at the northern Property boundary near monitoring well #14. A surface and subsurface sample should be collected and analyzed for the full suite of TAL/TCL.
 - f). Three (3) locations at Sparge Area #3 to the east, west and south of the area where soils were excavated in 2005. Surface soil samples should be collected and analyzed for TAL metals and TCL SVOCs.
 - g). One (1) location west of the Warehouse and south of the railroad spur. A surface sample should be collected and analyzed for TAL metals and TCL SVOCs. A subsurface sample should be collected and analyzed for TAL metals, TCL VOCs, and SVOCs.
 - h). One (1) location at the former oil water separator. A surface sample should be collected and analyzed for TAL metals and TCL SVOCs. A

subsurface sample should be analyzed for TAL metals, TCL VOCs, and SVOCs.

- i). One (1) location within the former separator holding pond. A surface soil sample should be collected and analyzed for TAL metals and TCL SVOCs. A subsurface sample should be analyzed for TAL metals, TCL VOCs, and SVOCs.
- 2). Surface soil quality results shall be compared to the Residential and Industrial Screening Levels and to the applicable Protection of Groundwater SSL. Subsurface soil results shall be compared to the applicable Protection of Groundwater SSL.

D. Assess groundwater quality:

- 1). Odfjell shall assess groundwater quality and determine the direction of groundwater flow across the Property. Assessment shall include samples from a minimum of five (5) existing onsite monitoring wells and at least one well installed to the top of the Cooper Marl confining layer. The locations and analysis are as follows:
 - a). "Shallow Background" (MW18, 19, or 20R) to be analyzed for full suite of TAL/TCL plus EDB;
 - b). "Deep Background" well in the vicinity of MW-18. Odfjell shall collect a sample at the top of the Cooper Marl confining layer to evaluate potential contamination from known offsite sources. A sample should be analyzed for TCL VOCs, SVOCs plus EDB;
 - c). MW-14 and MW-1R. A sample from each well should be analyzed for TCL VOCs and SVOCs plus EDB;
 - d). MW-4R and MW-6R. A sample from each well should be analyzed for the full suite of TAL/TCL plus EDB.
- 2). If the previously installed wells cannot be located or the integrity of any well is questionable, then Odfjell may propose to collect groundwater samples using a direct push technology as long as appropriate methods and / or technology is used to minimize the effects of turbidity in a sample.
- 3). Groundwater quality results shall be compared to the standards in the South

Carolina State Primary Drinking Water Regulations, R.61-58. If a standard is not specified in R.61-58 then the Regional Screening Table values for "Tapwater" shall be used.

E. Evaluate and control potential impacts to indoor air:

- 1). Odfjell shall evaluate potential impacts to indoor air if the Department determines significant concentrations of volatile organic compounds are present in the subsurface. The Department will use a modified Johnson and Ettinger Model to determine "Significant concentrations" based on representative soil and/or groundwater quality results reflective of the Property. The model will be constrained towards predicting commercial exposures consistent with the building construction on or proposed to be on the Property.
- 2). If required, this evaluation shall, unless otherwise agreed to by the Department, consist of collection and analysis of indoor air samples from within the buildings during two separate sampling events approximately six months apart. One sample shall be collected per every 1000 square feet of building footprint potentially subject to Vapor Intrusion. One sampling event shall be in the winter. Each sampling event shall include collection of indoor air samples for laboratory analysis of all site-related volatile organic constituents. The samples collected for laboratory analysis may use either active or passive collection methods provided the same protocol is used for both sampling events. The method shall be capable of detecting gas concentrations at screening levels indicative of a 10^{-6} risk. The applicable screening concentrations shall be based upon the EPA OSWER "Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils" or supplemental EPA guidance.
- 3). If required, this evaluation shall consist of collection and analysis of a minimum of two soil gas samples from the proposed footprint of each enclosed, habitable building to be constructed on the Property. Soil gas samples shall be analyzed for all site related volatile compounds by appropriate methods capable of detecting soil gas concentrations at

screening levels indicative of a 10^{-6} risk for shallow gas samples (using an attenuation factor appropriate for the depth of the samples) as identified in Table 2c of EPA OSWER Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils. The EPA OSWER guidance is available on the Internet as Subsurface Vapor Intrusion Guidance at <http://www.epa.gov/correctiveaction/eos/vapor.htm>.

- 4). The Department may allow Odfjell to implement Vapor Intrusion control measures in lieu of the evaluation described in Sections 4.E.1 through 3 above, or to use alternative evaluation methods that, in the Department's sole discretion, offer an equal or better degree of assessment.
- 5). Odfjell shall submit an addendum to the Work Plan detailing the steps for further study and/or remedial or other control management measures to be implemented if the measured or predicted indoor air concentration exceeds a 10^{-6} risk calculated for occupational exposure (40 hrs/wk, 50 wk/yr, for 25 yrs). The Department shall give reasonable consideration of data or other demonstration that shows unacceptable exposures inside the building do not result from the subsurface conditions.

F. Institute reasonable contamination control measures:

- 1). Odfjell shall take reasonable measures to limit or prevent human exposure to Existing Contamination on the Property:
 - a). Measures shall be required for Waste Materials and contaminated media with concentrations in excess of appropriate human-health risk-based exposure standards. The measures may include removal, encapsulation, barriers, or other methods reasonably expected to limit human exposures to the contamination.
 - i. The measures shall be approved by the Department prior to implementation, and shall be consistent with the intended future use of the Property.
 - ii. Odfjell shall provide appropriate documentation to demonstrate satisfactory completion of the control measures for Department review and approval prior to obtaining a Certificate of Completion.

- 2) Odfjell shall remove from the Property any Segregated Sources of contamination that have not yet released all contents to the environment.
 - a). The contents of the Segregated Sources shall be properly reused or disposed of in accordance with regulations.
 - b). Odfjell shall document the characterization and ultimate disposition of the materials to the Department within sixty (60) days of removal of any material from the Property.

G. Monitor and/or abandon the monitoring wells:

- 1). Odfjell may be required to implement a groundwater-monitoring program to determine the effectiveness of a corrective action required of Odfjell by the Department. The Department will determine the frequency and duration of the monitoring program on a case-specific basis.
- 2). Odfjell shall abandon the monitoring well(s) when the Department determines there are no further needs for wells. The wells shall be abandoned in accordance with R.61-71 of the South Carolina Well Standards.

H. Complete required activities in the event of a Responsible Party default:

- 1). Ongoing Responsible Party activities under Consent Agreement 03-207-W may substantially satisfy some of the requirements in sub-paragraphs 4.D above. Therefore, it is agreed that response action completed by Reiss that meet the conditions of this Contract shall be deemed to satisfy the requirements on Odfjell. The Department shall have sole discretion in determining the adequacy of Reiss's response action towards completing the activities required by this Contract.
- 2). The Department will provide written notification to Odfjell if the Department determines that Reiss's activities are inadequate.
- 3). Odfjell shall respond in writing within thirty (30) days to the Department's notification with a workplan for completing the unfulfilled requirements of this Contract identified by the Department.

HEALTH AND SAFETY PLAN

5. Odfjell shall prepare and submit under separate cover from the Work Plan, a Health and Safety Plan consistent with Occupational Safety and Health Administration regulations. Odfjell agrees that the Health and Safety plan is submitted to the Department only for informational purposes. The Department expressly disclaims any liability that may result from implementation of the Health and Safety Plan by Odfjell.

PUBLIC PARTICIPATION

6. Odfjell and the Department will encourage public participation to implement this Contract as follows:

- A. The Department will seek public comment and initiate a thirty-day claim contribution notification period in accordance with established procedures consistent with S.C. statutes upon signature of this Contract by Odfjell.
- B. Odfjell shall erect a sign at major entrances onto the Property or other locations routinely accessible by the public. The sign(s) shall be erected within one (1) day of the Department's public announcement about the Contract in a newspaper of general circulation in the community.
 - 1). The sign will state "Voluntary Cleanup Project by Odfjell under Voluntary Cleanup Contract 10-5956-NRP with the South Carolina Department of Health and Environmental Control." The sign shall provide a brief description of the scope of activities under the Contract, and contact information, including telephone number and address, for a representative of Odfjell. Contact information for the Department shall state "TOLL-FREE TELEPHONE: 1-866-576-3432".
 - 2). All sign lettering must be of sufficient size to be legible with un-aided normal eyesight from the point where the public will normally pass by the site without intruding onto the Property.
 - 3). Odfjell shall submit photographs of the sign and a Property drawing showing

the location(s) of the signs. The photographs shall be submitted to the Department within 10 days of erecting the sign.

- 4). Odfjell agrees to revise the sign if the Department determines the sign is inaccurate, not legible, or otherwise ineffectively placed.
- 5). Odfjell shall maintain the sign(s) in legible condition and at visible locations throughout the duration of the contract period until a Certificate of Completion is issued on the Property.
- 6). The sign(s) may be removed to accommodate building or grading activities; however, Odfjell shall restore the sign within two (2) days to its original location, or other publicly accessible location upon notice to the Department.

PROGRESS UPDATES

7. Odfjell shall submit periodic written updates to the Department's project manager until such time as all activities are complete pursuant to this Contract. The first update shall be due within ninety (90) days of Work Plan approval and semi-annually thereafter.

A. The updates may be in summary letter format, but should include information about:

- 1). The actions taken under this Contract during the previous reporting period;
- 2). Actions scheduled to be taken in the next reporting period;
- 3). Sampling, test results, and any other data in summary form, generated during the previous reporting period regardless of whether the data was collected pursuant to this Contract; and,
- 4). A description of any environmental problems experienced during the previous reporting period and the actions taken to resolve them.

B. The Department's project manager may allow an extended schedule between updates based on site-specific conditions.

SCHEDULE

8. Odfjell shall perform all activities and response actions pursuant to this Contract in

an expeditious manner. In the event that circumstances dictate a delay in implementation of the response actions, the Department may require implementation of interim measures to stabilize Contamination or prevent unacceptable exposures. Odfjell shall implement the interim measures in accordance with a Department-approved plan.

DECLARATION OF COVENANTS AND RESTRICTIONS

9. Odfjell or its Beneficiaries shall enter, and record, an Amended Declaration of Covenants and Restrictions (Amended Covenant) for the Property because the Property does not meet the requirements for unrestricted use. The Amended Covenant will prohibit the use of the Property for residences, elder care facilities, day care facilities, schools, and will prohibit the use of groundwater beneath the Property for use as a drinking water source or for irrigation purposes. Other restrictions, if required, will be based on Odfjell's response actions. Odfjell shall enter and record the Amended Covenant after completing the response actions pursuant to this Contract. The recorded Amended Covenant shall be incorporated into this Contract as an Appendix and shall be prepared, executed, recorded, and implemented as follows:
 - A. The Department shall prepare and sign the Amended Covenant prior to providing it to Odfjell. An authorized representative of Odfjell or its Beneficiaries shall sign the Amended Covenant within ten (10) days of receipt. All signatures shall be witnessed, and signed and sealed by a notary public.
 - B. Odfjell or its Beneficiaries shall file the executed Amended Covenant with the Registrar of Deeds for Charleston County where the Property is located.
 - C. Odfjell or its Beneficiaries shall provide a copy of the recorded Amended Covenant to the Department's designated contact (see 10.A.) within sixty days (60) of the Department's execution. The copy shall show the date and Book and Page number where the Amended Covenant has been recorded.
 - D. In the event that contamination exceeds standards on a portion of the Property requiring restrictions in addition to those described above (i.e., residences, elder

care facilities, day care facilities, schools, and groundwater use), Odfjell or its Beneficiaries may create a new parcel that will be subject to a more restrictive covenant.

E. The Amended Covenant shall reserve a right of entry and inspection for Odfjell or its Beneficiaries that may be transferred to another single individual or entity for purposes of compliance monitoring.

1). Odfjell or its Beneficiaries shall ensure that the restrictions established by the Amended Covenant remain on any subdivided property.

2). Odfjell or its Beneficiaries shall create a procedure to provide a single point of contact responsible for documenting current land use and compliance with the Amended Covenant regardless of the Property's ownership status. The procedure shall be reviewed and approved by the Department before it is implemented.

F. Odfjell or its Beneficiaries, or the individual or entity responsible for compliance monitoring, shall annually document the Property's land use and compliance with the Amended Covenant to the Department. The report shall be submitted by May 31st in a manner and form prescribed by the Department.

G. The Department may further amend the Amended Covenant in response to changes in law, completion of remedial actions meeting the applicable standards in effect at the time, or if other circumstances of the Site change; however, said amendment shall not be applied retroactively unless expressly provided for in the legislation. An amendment may strengthen, relax, or remove restrictions based on the Regional Screening Tables in effect at that time; however, the Department shall not impose a more restrictive condition based solely on changes in the Regional Screening Tables. An amendment to the Covenant shall be duly executed and recorded using procedures similar to those detailed above.

NOTIFICATION

10. All correspondence required to be given by either party to the other shall be in writing. Each party shall have a continuing obligation to identify a contact person,

whose name, address, and telephone number must be updated to the other party, throughout the term of the contract. Notices by electronic mail or facsimile shall be acceptable if acknowledged in writing by the recipient; with the delivery date being the date of acknowledgment or earlier date if stated in the acknowledgment. All other forms of correspondence shall be deemed sufficiently given if delivered at the address shown below, or at such place or to such agent as the parties may from time to time designate in writing, by: 1) regular U.S. Mail; 2) Certified or Registered Mail; 3) Commercial delivery service company; or, 4) hand delivery to the other party.

- A. All correspondence to the Department including two hardcopies of all Work Plans and reports, and one hardcopy of the Health and Safety Plan should be submitted to:

Ms. Jo Cherie Overcash

Bureau of Land and Waste Management – Brownfields Program

2600 Bull Street

Columbia, South Carolina 29201

- B. Odfjell's designated contact person as of the effective date of this contract shall be:

Newman Jackson Smith, Esq.

Nelson Mullins Riley & Scarborough LLP

Liberty Center / 6th Floor, 151 Meeting Street

Charleston, South Carolina 29401-2239

FINANCIAL REIMBURSEMENT

11. Odfjell or its Beneficiaries shall reimburse the Department for its public participation costs and for oversight costs of activities specific to this Contract as provided by S.C. statutes. The oversight costs shall include the direct and indirect costs incurred by the Department in implementing the Voluntary Cleanup Program as related to this Contract, and any future amendments thereof, and may include costs

incurred by the Department prior to execution of this Contract. Invoices for oversight costs will be sent to Odfjell on a quarterly basis. All costs are payable within thirty (30) days of the Department's invoice submitted to:

N. Jackson Smith, Esq.
Nelson Mullins Riley & Scarborough LLP
Liberty Center / 6th Floor, 151 Meeting Street
Charleston, South Carolina 29401-2239

ACCESS TO THE PROPERTY

12. Odfjell agrees the Department has an irrevocable right of access to the Property after Odfjell acquires the Property. This right of access remains until such time as remediation is accomplished for unrestricted use and monitoring is no longer required, and shall extend to the Department's authorized representatives and all other persons performing response actions on the Property under the Department's oversight.

CERTIFICATE OF COMPLETION AND COVENANT NOT TO SUE

13. A Certificate of Completion will be issued on the Property as follows:

- A. Odfjell shall request a Certificate of Completion after the response actions are completed and any required Covenants are recorded pursuant to this Contract. The request shall be in writing and shall report 1) the amount of soil that was removed or remediated on the Property; and 2) the cost of all environmental work conducted pursuant to this Contract.
- B. The Department will issue the Certificate of Completion with its covenant not to sue upon determining that Odfjell has successfully and completely complied with the Contract.
- C. The Department may issue a Provisional Certificate of Completion if the substantive response actions are complete but all activities on the Property cannot be completed due to site-specific circumstances.
 - 1). A Provisional Certificate of Completion will include specific performance

standards that Odfjell or its Beneficiaries shall continue to meet.

- 2). The Provisional Certificate of Completion may include the Department's covenant not to sue for Existing Contamination; however, said covenant shall be automatically revoked if Odfjell or its Beneficiaries do not satisfactorily complete the requirements of the Contract.

ECONOMIC BENEFITS REPORTING

14. Odfjell or its Beneficiaries shall report information to the Department that demonstrates that the activities pursuant to this Contract have been beneficial to the State and community. The report shall be submitted within two years after the execution date of this Contract, and annually until two years after redevelopment of the Property is complete. Odfjell shall summarize the new operations at the Property, the number of jobs created, the amount of increase to the tax base, and the total amount invested in the site for property acquisition and capital improvements.

TRANSFER OF CONTRACT OBLIGATIONS AND PROTECTIONS

15. The terms and conditions of this Contract apply to and inure to the benefit of the Department, Odfjell, and its Beneficiaries. The following stipulations apply to ensure the transition of all responsibilities and benefits to successive Beneficiaries for any portion of the Property:
 - A. Odfjell or its Beneficiaries shall provide a copy of this Contract and applicable Appendices to any subsequent Beneficiary. Transmittal of the Contract copy may be via any commonly accepted mechanism.
 - B. If the Certificate of Completion has not been issued, Odfjell or its Beneficiaries shall seek approval from the Department prior to transferring the protections and obligations of this Contract to a new individual or entity. The protections shall not inure to an individual or entity without the Department's approval. The Department shall not unreasonably withhold its approval upon receipt of documentation from the new individual or entity showing it:

- 1). Is eligible to be a Bona Fide Prospective Purchaser for the Property;
 - 2). Has sufficient resources to complete the activities of this Contract;
 - 3). Will not use the Property for activities that are inconsistent with the terms and conditions of this Contract;
 - 4). Will assume the protections and all obligations of this Contract and,
 - 5). Will, in the Department's sole discretion, provide a measurable benefit to the State and the community as a result of this transfer.
- C. If the Certificate of Completion has been issued and the portion of the Property is subject to a Covenant or other ongoing obligation pursuant to this Contract, Odfjell or its Beneficiaries shall provide written notification to the Department identifying the new individual or entity within thirty (30) days after the effective date of the ownership change or other possessory transfer of the Property.
- 1). The notification shall include a signed statement from the new individual or entity that its use of the Property will remain consistent with the terms of the Contract, and that it will assume the protections and ongoing obligations of this Contract.
 - 2). This requirement is waived for an individual or entity acquiring a portion of the Property for individual residential use provided the Covenant is recorded on the master deed for the residential development, and the Department has approved the procedure for a single point of contact responsible for documenting current land use and compliance with the Covenant.
- D. If a Certificate of Completion has been issued and the Property is not subject to a Covenant or other continued obligation pursuant to this Contract, no notification is required.

CONTRACT TERMINATION

16. Odfjell, its Beneficiaries, and the Department each reserve the right to unilaterally terminate this Contract by giving thirty days advance written notice to the other party. Termination shall be subject to the following:
- A. The Department may terminate this Contract only for cause and shall provide opportunity for Odfjell or its Beneficiaries to correct causes of termination, which

may include, but is not limited to, the following:

- 1). Failure to complete the terms of this Contract;
 - 2). Change in Odfjell's or its Beneficiaries' business activities on the Property or use of the Property that are inconsistent with the terms and conditions of this Contract;
 - 3). Failure to submit timely payment for costs upon receipt of the Department's invoice;
 - 4). Failure of Odfjell or its Beneficiaries to implement appropriate response actions for additional contamination or releases caused by Odfjell or its Beneficiaries, or
 - 5). Providing the Department with false or incomplete information or knowing failure to disclose material information;
 - 6). Failure by Odfjell or its Beneficiaries to obtain the applicable permits from the Department for the response actions or other activities undertaken at the Property pursuant to this contract; or,
 - 7). Failure by Odfjell or its Beneficiaries to make material progress toward the expansion, redevelopment, or reuse of the property as determined by the Department upon consideration of Odfjell's or its Beneficiaries' marketing efforts, regional economic conditions, and other pertinent information on the Property.
- B. Should Odfjell or its Beneficiaries elect to terminate, that party shall certify to the Department's satisfaction that any environmental or physical hazards created by Odfjell or its Beneficiaries have been stabilized or mitigated such that the Property does not pose hazards to human health or the environment that did not exist before the response actions identified in this Contract.
- C. Termination of this Contract by any party does not end the obligations of Odfjell or its Beneficiaries to pay costs incurred by the Department pursuant to this Contract prior to the date that any such termination takes effect. Payment for such costs shall become immediately due.
- D. The protections provided to Odfjell or its Beneficiaries shall be null and void as to any party who willfully or intentionally participated in actions giving rise to

termination of the Contract. This shall apply to that party's lenders, parents, subsidiaries, members, managers, employees, and successors, including lessees, heirs, devisees, and other parties taking an interest in the Property through that party. The protections will continue for any other covered party who did not willfully or intentionally participate in the action giving rise to the termination.

ENTITLEMENT OF PROTECTIONS AND BENEFITS

17. Odfjell and its Beneficiaries are entitled to the protections and benefits provided by S.C. statutes as follows:

- A. Effective on the date this Contract is first executed by the Department:
 - 1). Protection from CERCLA contribution claims.
 - 2). Protection from third-party claims as provided by S.C. Code Ann. § 44-56-750(H).
 - 3). Eligibility to file annual application for Voluntary Cleanup Activity Tax Credits pursuant to S.C Code § 12-6-3550.
- B. Effective on the date the Certificate of Completion is issued by the Department:
 - 1). The Department's covenant not to sue Odfjell and its Beneficiaries for Existing Contamination except for releases and consequences caused by Odfjell or its Beneficiaries.
 - 2). Specific tax credits or additional benefits expressly contingent in S.C. statutes on issuance of the Certificate of Completion.
- C. These Protections and Benefits do not apply to any contamination, releases, and consequences caused by Odfjell and its Beneficiaries. The Department retains all rights under State and Federal laws to compel Odfjell and its Beneficiaries to perform or pay for response activity for contamination, releases and consequences created by Odfjell or its Beneficiaries.

RESERVATION OF RIGHTS BY THE DEPARTMENT

18. Nothing in this Contract is intended to be, or shall be construed as, a release or

covenant not to sue for any claim or cause of action, past or future, that the Department may have against any person, firm, or corporation other than Odfjell and its Beneficiaries. The Department reserves the right to undertake future response actions at the Site and to seek to compel parties, other than Odfjell and its Beneficiaries, to perform or pay for response actions at the Site. Nothing in this Contract shall in any way restrict or limit the nature or scope of response actions that may be taken or be required by the Department in exercising its authority under State and Federal law.

RESERVATION OF RIGHTS BY ODFJELL

19. Odfjell retains all rights to assert claims in law or equity against any person, company, or entity with respect to the Property, except as limited elsewhere by this Contract. Odfjell and its Beneficiaries specifically deny responsibility for response costs or damages resulting from Existing Contamination except for contamination, releases, and consequences they cause or contribute to the Site. However, Odfjell and its Beneficiaries agree to undertake the requirements of this Contract.

BURDEN OF PROOF

20. Odfjell and its Beneficiaries shall have the continuing obligation to demonstrate that any newly discovered contamination is not attributable to Odfjell or its Beneficiaries. Odfjell and its Beneficiaries shall make this demonstration to the Department's satisfaction in accordance with State or Federal Law applicable to such newly discovered contamination. For purposes of this clause, newly discovered contamination means finding types of contamination not previously identified at the Site or substantially higher concentrations of Existing Contamination.

LIMITATION OF CLAIMS BY Odfjell AND ITS BENEFICIARIES

21. In consideration of the protections from the Department, Odfjell and its Beneficiaries agree not to assert any claims or causes of action against the Department or to seek other costs, damages, or attorney's fees from the Department arising out of activities undertaken at the Site. This limitation shall not

extend to any claims or causes of action resulting from the Department's intentional or grossly negligent acts or omissions, or the Department's willful violation of the terms of this agreement.

SIGNATORS

22. The signatories below hereby represent that they are authorized to and do enter into this contract on behalf of their respective parties.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK
AND FOLLOWED BY SIGNATURE PAGE**

**The South Carolina Department of Health
And Environmental Control**

BY:

DATE:

Daphne G. Neel, Chief
Bureau of Land and Waste
Management

DATE:

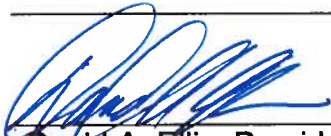
Reviewed by Office of General Counsel

Odfjell Terminals (Charleston) LLC

BY:

DATE:

December 9, 2010



David A. Ellis, President

APPENDIX A



Non Responsible Party Application for Voluntary Cleanup Contract

I. Applicant Information

1. Applicant is a: ☒ Single Entity ☐ Co-Entity (Each Co-Entity must complete items 1-8)
2. Applicant Type: ☐ Private Individual /Sole Proprietorship ☒ For-profit Business (Corp., Partnership, etc.) ☐ Tax-Exempt Trust/ Corporation/ Organization ☐ Government / Other Public Funded Entity

3. Applicant's Legal Name Odfjell Terminals (Charleston) LLC

4. Contract Signatures for this Applicant

a. Authorized Signatory

David A. Ellis President dave.ellis@odfjell.com

Name Title Email
12211 Port Road (713) 844-2330 (832) 419-2739

Address Phone1 Phone2
Seabrook Texas 77586

City State Zip

b. Other Signatories ☒ None

Name	Title	Phone	Email	Signature Required On Contract?
		() -		<input type="checkbox"/>
		() -		<input type="checkbox"/>
		() -		<input type="checkbox"/>

5. Physical Location of Applicant's Headquarters

12211 Port Road

Street address Suite Number
Seabrook Texas 77586

City State Zip

6. Mailing address: ☒ Same as Authorized Signatory Go to question 7

Contact person (if different from Authorized Signatory) Title

Street Number or PO Box Phone1 Phone 2

City State Zip Email

7. Company Structure Information ☐ Not-applicable (Local Government, Sole Proprietorship, Private Individual) - Go to Question #8

a. Company is Incorporated/ Organized/ Registered in Delaware (state)

b. List all principals, officers, directors, controlling shareholders, or other owners with >5% ownership interest.

Attach additional pages if needed.

Name	Name
David A. Ellis, President	
Albert Noggle, Treasurer	

c. Is the applicant a subsidiary, parent or affiliate of any other business organization not otherwise identified on this form?

☒ Yes ☐ No

d. If yes, identify all affiliations: Odfjell Holdings (US) Inc.

8. Non-Responsible Party Certification

By signature below, it is affirmed that no person or entity identified anywhere above:

1. Is a current owner of the property
2. Is a Responsible Party for the site
3. Is a parent, successor, or subsidiary of any Responsible Party or owner of the property
4. Has had any involvement with the property in the past other than activities performed in anticipation of participation in the Voluntary Cleanup Program

Authorized Signatory

Co Signatories

II. Property Information

9. Location

a. Physical Address 1003 Virginia Avenue, North Charleston, SC 29405

b. County Charleston

c. ☐ Property is outside any municipal boundaries ☒ Property is inside the municipal limits of North Charleston
(town/city)

10. List any Companies or Site names by which the Property is known

Koch Materials Site

Charleston Cement Site

11. Total Size of Property Covered by this Contract 19.978 Acres

12. How many parcels comprise the Property? One

13. Current Zoning (general description)

M-2 - Heavy Industrial

14. a. Does the property have any above- or below-ground storage tanks? ☒ Yes ☐ No

b. If Yes, provide information on the number and capacity of the tanks, their contents, and whether they will be retained, or closed and/or removed.

Property has two above-ground storage tanks, each with a capacity of 99,000 barrels.

15. Parcel Information Complete the information below for each Parcel (attach additional sheets if needed)

a. Tax Map Parcel# 502-14-00-002
b. Acreage 19.978
c. Current Owner Charleston Cement Co.
d. Owner Mailing Address _____

e. Contact Person for Access _____
f. Access Person's Phone # _____
g. Is Parcel Currently Vacant? ☐ Yes ☐ No
h. Buildings on the parcel? ☐ None
(check all that apply) ☐ Demolished/Ruins
☐ Intact, To be demolished
☐ Intact, To be re-used
i. Business/facility operations ☐ Never Operated on the parcel
☐ Not operating since _____
(approx date)
☐ In operation: nature of the
business _____

a. Tax Map Parcel# _____
b. Acreage _____
c. Current Owner _____
d. Owner Mailing Address _____

e. Contact Person for Access _____
f. Access Person's Phone # _____
g. Is Parcel Currently Vacant? ☐ Yes ☐ No
h. Buildings on the parcel? ☐ None
(check all that apply) ☐ Demolished/Ruins
☐ Intact, To be demolished
☐ Intact, To be re-used
i. Business/facility operations ☐ Never Operated on the parcel
☐ Not operating since _____
(approx date)
☐ In operation: nature of the
business _____

a. Tax Map Parcel# _____
b. Acreage _____
c. Current Owner _____
d. Owner Mailing Address _____

e. Contact Person for Access _____
f. Access Person's Phone # _____
g. Is Parcel Currently Vacant? ☐ Yes ☐ No
h. Buildings on the parcel? ☐ None
(check all that apply) ☐ Demolished/Ruins
☐ Intact, To be demolished
☐ Intact, To be re-used
i. Business/facility operations ☐ Never Operated on the parcel
☐ Not operating since _____
(approx date)
☐ In operation: nature of the
business _____

a. Tax Map Parcel# _____
b. Acreage _____
c. Current Owner _____
d. Owner Mailing Address _____

e. Contact Person for Access _____
f. Access Person's Phone # _____
g. Is Parcel Currently Vacant? ☐ Yes ☐ No
h. Buildings on the parcel? ☐ None
(check all that apply) ☐ Demolished/Ruins
☐ Intact, To be demolished
☐ Intact, To be re-used
i. Business/facility operations ☐ Never Operated on the parcel
☐ Not operating since _____
(approx date)
☐ In operation: nature of the
business _____

a. Tax Map Parcel# _____
b. Acreage _____
c. Current Owner _____
d. Owner Mailing Address _____

e. Contact Person for Access _____
f. Access Person's Phone # _____
g. Is Parcel Currently Vacant? ☐ Yes ☐ No
h. Buildings on the parcel? ☐ None
(check all that apply) ☐ Demolished/Ruins
☐ Intact, To be demolished
☐ Intact, To be re-used
i. Business/facility operations ☐ Never Operated on the parcel
☐ Not operating since _____
(approx date)
☐ In operation: nature of the
business _____

a. Tax Map Parcel# _____
b. Acreage _____
c. Current Owner _____
d. Owner Mailing Address _____

e. Contact Person for Access _____
f. Access Person's Phone # _____
g. Is Parcel Currently Vacant? ☐ Yes ☐ No
h. Buildings on the parcel? ☐ None
(check all that apply) ☐ Demolished/Ruins
☐ Intact, To be demolished
☐ Intact, To be re-used
i. Business/facility operations ☐ Never Operated on the parcel
☐ Not operating since _____
(approx date)
☐ In operation: nature of the
business _____

III. Property Redevelopment

16. Describe the intended re-use of the property:
(attach additional sheets if necessary)

Construction and operation of bulk liquid tank farm storage and distribution terminal for ships, rail and truck transportation of liquid products.

17. a. Will the future use include any chemical processes, petroleum or chemical storage and handling, on-site waste disposal, or generate any hazardous substances? ☒ Yes ☐ No
b. If Yes, identify the substances and discuss steps that will be taken to prevent their release to the environment.
Large Quantity Generator status will be established, all requirements for tank storage and disposal of any cleaning wastewater will be permitted for pre-treatment and disposal to the North Charleston Sewer District or for disposal at an appropriate facility.

18. Will redevelopment lead to the creation of permanent jobs on the property? ☒ Yes Anticipated Number 12-40
☐ No

19. Projected Increase to the Tax Base as a result of this redevelopment: \$ \$20,000,000

20. a. Will there be Intangible benefits from this redevelopment such as:
☐ LEED, Earth Craft, EnergyStar, or similar certification of Sustainable Development
☐ Creation / Preservation of Green Space on the Property
☐ Deconstruction/ Recycling of demolition or building debris
☐ Other _____

- b. Please Describe:

21. Anticipated date of closing or acquiring title to the property 12 / 17 / 2010

22. Redevelopment Certification

By signature below, the applicant(s) affirm that their proposed use and activities will not knowingly aggravate or contribute to existing contamination or pose significant human health or environmental risks on the property.



Signature(s)

IV. Project Management And Financial Viability (Co-Entities, refer to instruction sheet)

23. Environmental Consulting Firm
☐ None as of this application date

Kestrel Horizons

Company

1876 Wallenberg Blvd Suite A

Charleston

SC

29407

Address

City

State

Zip

Marie R. Stephens

2435

843-769-4449

843-323-1189

marrant@kestrelhoriz

Project Contact1

S.C PE/PG Reg. #

Phone1

Phone 2

email

Project Contact 2

S.C PE/PG Reg. #

Phone1

Phone 2

email

24. Legal Counsel (Optional)
Nelson Mullins Riley & Scarborough, LLP
Firm
Newman Jackson Smith 843-534-4309
Attorney Phone1 Phone 2
151 Meeting Street, 6th Floor Charleston SC 29401 jack.smith@nelsonmullins.com
Street Number or PO Box City State Zip email

25. Applicant's Billing Address ☒ Same as Contact person in #6 above Go to question #26

Financial Contact Title
Company Phone
Address
City State Zip

26. Financial Viability

By signature(s) below, the applicant agrees to:

1. Pay the Department's costs upon receipt of invoices for implementing the Voluntary Cleanup Program for this Property, and
2. Provide financial statements, if requested, to document financial viability to conduct the response actions on the Property.

☐ Waiver Requested (Check Box If applicable)

The applicant is a Local Government or qualifies as a 501(c) Non-Profit Organization, and requests waiver of some Departmental costs of implementing this contract.

Signatures

V. Application Completion (The following are required along with this form. Check applicable boxes)

27. The Legal Description of the Property is attached as a: ☐ Plat Map ☐ Metes and Bounds Text ☒ Both

28. The Phase I Environmental Site Assessment Report is attached as a:

☒ New report completed in the past six months by Kestrel Horizons, LLC

(Name of Environmental Firm)

☐ Older report updated in the past six months by

(Name of Environmental Firm)

29. Environmental sampling data and other reports: (check one)

☐ The Applicant is not aware of any environmental testing on the property

☒ The Applicant believes the Department already has all environmental data in its files on: Reiss Remediation/Koch Materials

☒ The Following reports are attached: (Site Name)

Report Date	Report Name	Environmental Firm
To be submitted	Phase II (Supplement to Phase I)	Kestrel Horizons, LLC
To be submitted	VCC Investigation Report	Kestrel Horizons, LLC

30. Mailing addresses of Former Owners, Operators and other Potentially Responsible Parties: (check one)

☐ Enclosed with this Application as an Attachment

☒ Will be submitted along with (or before) the signed contract

31. The applicants attest by signature below that this application is accurate to their best knowledge. Furthermore, the applicants request DHEC evaluate the Property for inclusion in the Brownfields Voluntary Cleanup Program and draft a Non-Responsible Party Contract for the Property.

Signature(s)

This Section for Department Use Only

Assigned File Name		
Eligible for NRP Contract	Y N	
Assigned File Number		
Assigned Contract Number		

APPLICATION INSTRUCTIONS

General Instructions: The Application should be completed electronically. The application may be may saved with partial information, and reopened at a later time for completion.

The form is largely self-explanatory; however, the following information is further clarification for some questions. Additional assistance is available through the Voluntary Cleanup Program at the toll-free telephone number (866) 576-3432.

#1. Applicant Information: Check Sole Entity if the contract will be between DHEC and one party (usually an individual, most partnerships, businesses, government bodies, etc.).

Check Co-Entity if the contract will be between DHEC and multiple parties with no controlling interests over each other (Example: A Public-Private Partnership agreement between a local government and a business to redevelop a site). Each Co-Entity must submit its own copy of page 1 with the information specific to their business/corporate structure, etc.

#3. Applicant's Legal Name: Enter the full Legal Name of the party that will be entering the contract. If the party is incorporated as a business or non-profit organization, enter the name as recorded in the Articles of Incorporation/Organization. If the entity is a department or sub-division of a government body, include the name of the controlling government body. If the business will operate under a different name, enter that information in #7.d.

#4. Contract Signatures: The "Authorized Signatory" is a person who may legally bind the applicant in contractual matters. Identify any other persons that may sign contracts for the entity.

In some business structures (e.g., General Partnerships, Joint Ventures, etc.) multiple persons are required to sign contracts. If applicable, check the box by those names that must sign the contracts in addition to the Authorized Signatory. The Department will not take further steps to implement a contract until all Required Signatures are affixed.

#5. Physical Address for Applicant: The address must be the physical location of the applicant's business or headquarters. A post office box is not sufficient.

#8. Non-Responsible Party Certification: Each person identified as an Authorized Signatory and as a Required Signature, if any, should sign the application.

Co-Entities: Each Co-Entity should have the Authorized Signatory and all Required Signatures, if any, sign #8 only on the page specific to their organization.

#9. Property Location: If no address is assigned, identify the road on which the property is located, and the distance and direction from the nearest identifiable crossroads.

#10. Property Names: Enter the name that will be used in correspondence with the Department to refer to the Property, and any other names that may be commonly known to the local community because of past operations on the property.

#13. Current Zoning: Describe the zoning in terms such as "high-density residential", "retail", "commercial", and "light industrial" since there is no uniform numerical classification across the state.

#15. Parcel Information: Include all information for each parcel that will be acquired. Repeat information may be omitted (i.e., the same person currently owns multiple parcels).

If there are more than six parcels, the application may be saved electronically with different file names for as many times as needed for the number of parcels. Attach printouts of the pages with the additional parcels to the final application.

#26. Financial Viability: The Department will charge for oversight costs including time to review file materials and prepare a contract. The applicant is obligated to pay the accrued costs if a contract is successfully negotiated (i.e. signed by the applicant and the Department).

The Department may allow Local Governments and qualified Non Profit Organizations to waive payment of some oversight costs. The Department's decision to waive payment will be determined on a case-specific basis, and may be rescinded after due notice to the parties as specified in the contract.

#27. Property Legal Description: A legal description or surveyed Plat map must be included with the application. The Plat Map may be a copy of a survey filed with the county or un-filed copy completed by a SC- licensed Surveyor.

#28 Phase I Environmental Site Assessment Report: The Phase I Report should be consistent with the US EPA's "*All Appropriate Inquiries Rule*". The Phase I must be completed within the 6 months prior to the application. Environmental consultants may update older reports as long as the update is less than 6 months old.

Phase I reports paid for by other parties can be submitted, but may be subject to intellectual property claims. Applicants may need permission from the environmental consultants that originated the report before submitting it to the Department.

The US EPA may require another update from Local Governments and Non-Profit Organizations as a condition of receiving Brownfields grant money.

#30 Mailing Addresses of Potentially Responsible Parties: All former owners, operators and other PRPs (Potentially Responsible Parties) should be identified if their affiliation with the Property occurred anytime after the probable contamination.

The last known mailing address of the PRPs or of their registered agent(s) should be provided to the Department; however, the application may be filed before this information is compiled. The Department will not place a contract on Public Notice or execute it until sufficient information is provided to allow the Department to notify the PRPs of the contract.

Filing Mechanics

The form should be printed out after completion and signed by all persons identified as the "Authorized Signatory" or as "Signature Required". The form should have original signatures for Question #8 on page 1, Question #22 on page 4, and Questions #26 and #31 on page 5.

Co-Entity Applicants should sign Question #8 only on page 1 specific to their organization and on other pages as indicated above.

The completed form and all supporting documentation should be submitted to:

Robert F. Hodges, Jr., PG

Brownfields Voluntary Cleanup Program

Mailing Address:

Bureau of Land and Waste Management, SCDHEC

2600 Bull Street

Columbia SC 29201

Physical Address (For Hand-Delivery during normal office hours 8:30 AM to 5:00 PM):

8911 Farrow Road (Stern Building)

Columbia SC 23203

There is no application fee.

PROPERTY'S LEGAL DESCRIPTION

Parcel No. I:

ALL that piece, parcel or tract of land, situate, lying and being in the Waterfront section of North Charleston, county of Charleston, State of South Carolina, containing six and 92/100 (6.92) acres subject to the easement for railroad terminal purposes granted by Filbin Corporation to North Charleston Terminal Company by Deed, dated February 28, 1918, recorded in the R.M.C. Office, Charleston County, in Book R-28, Page 334, comprising a thirty (30') foot right-of-way, beginning in the Northwest corner of the said tract of land and extending in a curve line Southeast across the said property and serving the Oakdene Compress and Warehouse Company.

The said tract of land having such size, shape, dimensions and boundaries as are shown on a plat thereof made by The John McCrady Company, dated March 1941.

Parcel No. II:

BEGINNING at the intersection of the center lines of Montague Avenue and Cosgrove Avenue and running thence with the center line of Montague Avenue extended due East 371.3 feet to its intersection with the West line of the property now or formerly owned by Oakdene Compress and Warehouse Company, THENCE South 1 degree 12" East along the West line of the property now or formerly owned by Oakdene Compress and Warehouse Company 237.4 feet to a concrete post making the Southwest corner of the property now or formerly owned by Oakdene Compress & Warehouse Company, THENCE along the South line of the property now or formerly owned by Oakdene Compress & Warehouse Company South 85 degrees 7" East, 294 feet, THENCE South 4 degrees 53" West, 50 feet to the Northwest corner of the property hereby conveyed to Sinclair Refining Company or POINT OF BEGINNING, THENCE South 4 degrees 53" West, a distance of 500 feet to the Southeast corner of the property hereby conveyed, THENCE South 85 degrees 7" East, 1,200 feet, plus or minus, which, with a parallel line through the aforementioned POINT OF BEGINNING, extends to the Cooper River and bounds an area of approximately Thirteen and Seventy-eight (13.78) acres, together with all riparian rights of the Grantor incident and appertaining thereto.

Being the same as the following: "Beginning at PKF, noted as "POB", along the southern right-of-way of Montague Ave. (40' R/W) approximately 80' east of the eastern right-of-way of Virginia Ave. (R/W varies), thence turning and running along the southern right-of-way of Montague Ave. S86°08'45"E, a distance of 205.15' to an IPS, thence turning and running along the lands of David Maybank Jr GP ETAL S04°04'50"W, a distance of 217.40' to an IPS, thence continuing along said lands S80°03'25"E, a distance of 294.00' to a CMF, thence continuing along said lands S07°59'53"W, a distance of 50.00' to an IPS, thence continuing along said lands S80°01'25"E, a distance of 1,064.19' to a CP, thence turning and running along the Waters of the Cooper River S56°18'14"E, a distance of 92.40' to a CP, thence continuing along said waters S06°43'52"W, a distance of 92.79' to a CP, thence continuing along said waters S07°19'18"W, a distance of 86.33' to a CP, thence

continuing along said waters S09°37'48"W, a distance of 71.11' to a CP, thence continuing along said waters S51°59'59"W, a distance of 38.39' to a CP, thence continuing along said waters S23°56'46"W, a distance of 85.82 to a CP, thence continuing along said waters S03°31'36"W, a distance of 100.88' to a CMF, thence turning and running along the lands of Hess Oil and Chem. CORP. N80°01'25"W, a distance of 1568.33' to an IPS, thence turning and running along eastern right-of-way of North Charleston Terminal CO. N04°03'19"E, a distance of 747.36' to a PKF, the "POB", and containing 19.978 acres, more or less.

TOGETHER WITH the perpetual right to install, replace and maintain dolphins, piles, and necessary runways for the purpose of berthing, mooring, and docking ships along the East of the fifty (50) foot strip of ground lying immediately North of and adjacent to Parcel No. II; together with the perpetual right to so berth, moor, or dock, in the Cooper River at and along Parcel No. II, ships exceeding five hundred (500) feet in length that the same may extend a maximum distance of fifty (50) feet Northerly of the North line of Parcel No. II.